

August 10, 2020



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***Via ECF***

Hon. Lorna G. Schofield  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: C.A. No. 1:19-cv-8760-LGS; *360 Mortgage Group LLC v. Fortress Investment Group LLC* – **Request for Extension**

Dear Judge Schofield:

Pursuant to the Court's July 1, 2020 Scheduling Order, the parties jointly submit the following status letter and request a sixty (60) day extension of the deadlines set out in the Court's Second Amended Case Management Plan and Scheduling Order [[Dkt. 53](#)].

A Joint Request for Extension was previously filed on March 27, 2020 [[Dkt. 50](#)] as part of the parties' status letter to the Court. This was the parties' first extension request. The Court granted the extension request with modifications. In addition, Plaintiff filed a letter motion on June 30, 2020, requesting the extension of certain deadlines [[Dkt. 52](#)]. This was the second extension request. The Court granted this request in part and noted no further extensions would be granted absent extraordinary circumstances.

Even though remote depositions have been noticed, both parties are waiting for the production of documents by the government (HUD/Ginnie Mae) before depositions begin given the significance of this discovery to both parties. As noted in the email to Howard Rosenberg—the HUD point person who has been coordinating production of documents in response to Plaintiff's FOIA request to Ginnie Mae—due to his nearby co-worker testing positive for COVID-19, Mr. Rosenberg was put on administrative leave on July 21, 2020 [[Exhibit A](#)]. Because HUD/Ginnie Mae had collected responsive documents and were proceeding with their remaining processes before production, the parties believe the current situation is an unforeseen and extraordinary circumstance justifying this request.

Although additional discovery is needed, the parties have exchanged the following discovery to date:

- Defendant's First Request for Production of Documents and First Set of Interrogatories served on Plaintiff January 29, 2020;
- Plaintiff's First Request for Production of Documents and First Set of Interrogatories served on Defendant January 31, 2020;

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- Plaintiff's Responses and Objections to Defendant's First Request for Production of Documents and First Set of Interrogatories served February 28, 2020;
- Plaintiff's Document Production #1 served February 29, 2020 (261 documents);
- Defendant's Responses and Objections to Plaintiff's First Request for Production of Documents and First Set of Interrogatories served March 3, 2020;
- Defendant's Document Production #1 served March 18, 2020 (265 documents);
- Plaintiff's Document Production #2 served March 23, 2020 (264 documents);
- Defendant's Document Production #2 served April 7, 2020 (704 documents);
- Plaintiff's Document Production #3 served April 27, 2020 (689 documents);
- Defendant's Document Production #3 served May 11, 2020 (236 documents);
- Defendant's Document Production #4 served May 28, 2020 (490 documents);
- Defendant's Document Production #5 served June 24, 2020 (2,450 documents);
- Defendant's First Set of Requests for Admission to Plaintiff served June 26, 2020;
- Plaintiff's Request for Admissions to Defendant Fortress Investment Group, LLC served June 26, 2020;
- Plaintiff's Document Production #4 served June 30, 2020 (4,679 documents)
- Plaintiff's Document Production #5 served July 2, 2020 (155 documents)
- Plaintiff's Document Production #6 served July 10, 2020 (1,076 documents)
- Plaintiff's Document Production #7 served July 15, 2020 (1,633 documents)
- Plaintiff's Document Production #8 served July 21, 2020 (2,084 documents)
- Plaintiff's Document Production #9 served July 22, 2020 (475 documents)
- Plaintiff's Responses to Defendant Fortress Investment Group, LLC's Request for Admissions served July 23, 2020
- Plaintiff's Document Production #10 served July 24, 2020 (1,552 documents)
- Plaintiff's Document Production #11 served July 27, 2020 (1,226 documents)
- Plaintiff's Document Production #12 served July 27, 2020 (773 documents);
- Plaintiff's Document Production #13 served July 27, 2020 (1,371 documents);
- Plaintiff's Document Production #14 served July 27, 2020 (177 documents);
- Defendant Fortress Investment Group LLC's Responses and Objections to Plaintiff's Requests for Admission served August 3, 2020.

The parties, therefore, respectfully request a sixty (60) day extension of the current deadlines in the Case Management Plan and Scheduling Order as follows:

	<b>Current Deadlines <u>[Dkt. 53]</u></b>	<b>New Dates Requested</b>
Fact Discovery Completed	September 14, 2020	November 13, 2020
Third-Party Document Discovery Completed	September 14, 2020	November 13, 2020
Fact Depositions Completed	September 14, 2020	November 13, 2020

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	<b>Current Deadlines [Dkt. 53]</b>	<b>New Dates Requested</b>
Expert Discovery Completed	September 14, 2020	November 13, 2020
Parties to Submit Joint Status Letter as outlined in Individual Rule IV.A.2 and, in the event that they have not already been referred for settlement discussions, shall also advise the Court whether or not they request a referral for settlement discussions as provided above.	September 28, 2020	November 27, 2020

Respectfully submitted,

/s/ W. Mark Lanier

W. Mark Lanier

*Attorney for Plaintiff 360 Mortgage Group, LLC*

/s/ John J. Kuster

John J. Kuster

*Attorney for Defendant Fortress Investment Group, LLC*

The parties' request for an additional two-month extension of the fact discovery deadline is DENIED without prejudice to renewal. Neither the parties' letter, nor Exhibit A, provides information regarding the duration of Mr. Rosenberg's administrative leave, including whether or not Mr. Rosenberg actually tested positive. Further, the parties' submissions do not adequately explain, in the event Mr. Rosenberg is still on administrative leave, (1) their efforts to identify someone at HUD who could effectuate document production in Mr. Rosenberg's absence, (2) why Mr. Rosenberg's "colleagues . . . [do not have the] ability to produce documents in response to our FOIA requests," and/or (3) whether the parties have received any relevant update, since July 21, 2020, regarding HUD's ability to produce documents in response to their FOIA requests (Dkt. No. 55-1).

The parties shall file a letter by August 19, 2020, stating whether they have agreed on a schedule for expert discovery based on the deadline contained in the Civil Case Management Plan (see Dkt. No. 53), and, if so, who are the relevant experts. The letter shall include specific dates for fact and expert depositions and shall also include, if relevant, information responsive to that which was missing (listed above) in support of a renewed request for a discovery extension. The Clerk of Court is respectfully directed to close the open motions at Docket Nos. 55 and 57. SO ORDERED.

Dated: August 14, 2020  
 New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**